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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/232,289 01/15/99 BJORND AHL P 34650-250USP

EXAMINER

WM02/0410

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ART UNIT

PAPER NUMBER

2684

DATE MAILED:

04/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
**09/232,289**

Applicant(s)  
**Bjorndahl**

Examiner  
**Pablo Tran**

Group Art Unit  
**2684**



☒ Responsive to communication(s) filed on Jan 24, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-35 is/are pending in the application.

Of the above, claim(s) 2 and 30 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1, 3-29, and 31-35 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-12, 16-23, 27-32 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-32 of copending Application No. 09/022,289. Although the conflicting claims are not identical, they are not patentably distinct from each other because they disclosed a communication system for secure wireless communications..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-29, and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Israelsson* (5,479,595) in view of *Felsenstein* (5,608,723).

As per claims 1, 3, 8, 10, 16, 27, and 31, *Israelsson* disclosed a communication system for secure wireless communications, said communications system comprising:

- a first device (fig. 5-6/no. 31,34, col. 5/ln. 12-46) having transceiving means therein for communicating in a first and a second communication mode ; and
- a second device (fig. 5-6/no. 15, col. 5/ln. 12-46), in wireless communication with said first device, said first and second devices wirelessly communicating in said first communication mode using an infrared signal and in said second communication mode using a radiofrequency signal.

*Israelsson* disclose Applicant's invention except teaching wherein said first and second devices transceive a plurality of messages therebetween in said second communication mode, wherein, prior to transceiving a security message therebetween, said first and second devices switch transceiving to said first communication mode, and transmit said security message in said first communication mode. *Felsenstein* disclosed providing said first and second devices

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transceive a plurality of messages therebetween in said second communication mode, wherein, prior to transceiving a security message therebetween, said private base station and said mobile station switch transceiving to said first communication mode, and transmit said security message in said first communication mode (fig. 2-3, col. 3/ln. 25-col. 4/ln. 62). In order to transmit security message in infrared signal to prevent unauthorized listeners, it would have obvious to one of ordinary skill in the art at the time of Applicant's invention to provide a systems for secure wireless communication as taught by *Felsenstein* in conjunction with a mobile telephony system as taught by *Israelsson*.

As per claims 4, 7, 19, and 32, the combination of *Israelsson* and *Felsenstein* disclosed wherein said security message comprises a plurality of encryption keys for the subsequent encryption of a plurality of said messages transceived in said second communication mode (see *Felsenstein*, fig. 2-3, col. 3/ln. 25-col. 4/ln. 62).

As per claim 5, *Israelsson* disclosed wherein upon said mobile station switching said transceiving to said first communication mode, said second device transmits an infrared request message to said first device (fig. 6, col. 5/ln. 12-46).

As per claim 6, the combination of *Israelsson* and *Felsenstein* disclosed wherein said first device, upon receipt of said infrared request message, transmits said security message to said second device (see *Felsenstein*, fig. 2-3, col. 3/ln. 25-col. 4/ln. 62).

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As per claim 12, the combination of *Israelsson* and *Felsenstein* further disclosed wherein said communication system is a cordless system (see *Felsenstein*, abstract, fig. 1-4, col. 3/ln. 6-col. 5/ln. 40).

As per claim 9, 11, and 28, *Israelsson* further disclosed wherein said infrared transmission means comprises:

- a photodetector (fig. 6/no. 33, see *Felsenstein*, fig. 3/no. 50) for receiving said infrared transmissions; and
- an infrared emitter (fig. 6/no. 32, see *Felsenstein*, fig. 3/no. 44) for transmitting said infrared transmissions.

As per claims 13, 24, and 33, *Israelsson* further disclosed wherein said first and second devices are each selected from the group consisting of:

- mobile telephone, home base stations, Sim cards, heads sets, computers, printers, plotters, projectors, facsimile devices, pagers, data organizers, computer terminals, scanners, microphones, PC cards, televisions, radios, stereos, VCRS, light devices, dimmers, thermostats, doors, refrigerators, freezers, ovens, washers, dryers, answering machines, home alarms, car alarms, and other peripheral and portable devices (abstract, fig. 1-2, col. 2/ln. 6-18).

As per claims 14, 25, and 34, *Israelsson* disclosed wherein said first and second devices communicate on a radio frequency band range from about 2.4 GHZ to about 2.483 GHZ (abstract, fig. 1-2, col. 5/ln. 47-col. 8/ln. 13).

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As per claims 15, 26, and 35, *Israelsson* disclosed wherein said band is at about 2.45GHZ (abstract, fig. 1-2, col. 5/ln. 47-col. 8/ln. 13).

As per claim 17, 20, the combination of *Israelsson* and *Felsenstein* disclosed wherein prior to said establishment of said secure communication link, said first and second operated in said radiofrequency mode (see *Felsenstein*, fig. 2-3, col. 3/ln. 25-col. 4/ln. 62).

As per claim 18, *Israelsson* further disclosed wherein in said step of forwarding, said first device forwards said infrared request message to said second device, and said second device, upon receipt of said infrared request message, replies with an infrared reply message (fig. 6, col. 5/ln. 12-46).

As per claim 21, the combination of *Israelsson* and *Felsenstein* disclosed forwarding, from said second device, a security poll signal to said first device (see *Felsenstein*, abstract, fig. 2-3, col. 3/ln. 25-col. 4/ln. 62).

As per claims 22 and 23, the combination of *Israelsson* and *Felsenstein* disclosed wherein the security poll signal occurs periodically and randomly (see *Felsenstein*, abstract, fig. 2-3, col. 3/ln. 25-col. 4/ln. 62).

As per claim 29, *Israelsson* further disclosed wherein said infrared emitter comprises a light-emitting diode (fig. 6, col. 5/ln. 12-46, see *Felsenstein*, fig. 1-4, col. 3/ln. 6-col. 5/ln. 40).

### Conclusion

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5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Iwasaki (5,034,997), Borrás et al (5,301,353), Yen (5,812,293), Crimmins et al (5,917,425), Rune (5,850,444), Walker et al (5,659,883), Ishii (5,404,572), Sato (4,904,993) teaches communication system for data transmission and reception using radio wave and optical transmission of message signals.

***Response to Amendment***

6. Applicant's arguments filed January 24, 2001 have been fully considered but they are not persuasive.

In response to the Applicant's arguments, the Applicant's stated that " Felsenstein fails to disclose a security message transmitted in infrared mode". Felsenstein disclosed transmit said security message in said first communication mode (light signal) (fig. 2-3, col. 3/ln. 25-col. 4/ln. 62).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period



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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Any response to this final action should be mailed to:**

**Box AF**

**Commissioner of Patents and Trademarks**

**Washington, D.C. 20231**

**or faxed to:**

**(703) 308-9051, (for formal communications; please mark**

**“EXPEDITED PROCEDURE”)**

**Or:**

**(703) 308-9508, (for informal or draft communication, please**

**label “PROPOSED” or “DRAFT”)**

**Hand-delivered responses should be brought to Crystal Park II, 2121**

**Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).**

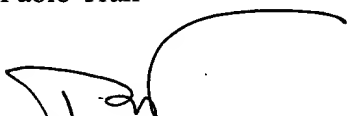
7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Pablo Tran whose telephone number is (703)308-7941. The fax number for this Group is (703)308-6306 and (703)308-6296.

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Any inquiry of a general nature to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)305-4700.

April 6, 2001

Pablo Tran



Examiner, Art Unit 2684



DANIEL HUNTER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600